

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARVIN ALBERTO VIVAS-MORALES, )  
                                       )  
Plaintiff,                         )  
                                       )  
v.                                     ) Civil Action No. 03-312(Erie)  
                                       )  
UNITED STATES OF AMERICA,         )  
                                       )  
Defendant.                         )

**MOTION TO DISMISS  
FOR FAILURE TO PROSECUTE**

AND NOW, comes the Defendant, the United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Rebecca Ross Haywood, Assistant United States Attorney, and pursuant to Fed. R. Civ. P. 41(b) respectfully moves the Court to issue an Order dismissing Plaintiff's Complaint because he has failed to prosecute this action.

A Brief in Support of this motion, together with Exhibits 1 through 6, are being filed simultaneously herewith and the contents therein are incorporated by reference.

WHEREFORE, the Defendant, United States of America, respectfully requests that the Court issue an Order dismissing the Complaint of Plaintiff, Marvin Alberto Vivas-Morales, with prejudice.

Respectfully submitted,

MARY BETH BUCHANAN  
United States Attorney

/s/REBECCA ROSS HAYWOOD  
Assistant U.S. Attorney  
Western District of PA  
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Suite 400  
Pittsburgh, PA 15219  
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Counsel for Defendant  
United States of America

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Plaintiff,                     )  
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v.                                 ) Civil Action No. 03-312(Erie)  
                                    )  
UNITED STATES OF AMERICA,     )  
                                    )  
Defendant.                     )

ORDER

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
upon consideration of the Defendant's Motion to Dismiss for  
Failure to Prosecute, and upon further consideration of any  
response thereto,

IT IS HEREBY ORDERED that said motion is **GRANTED**, and  
Plaintiff's Complaint against Defendant is hereby **DISMISSED, WITH  
PREJUDICE**.

\_\_\_\_\_, J.

cc: all parties of record

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the  
within pleading was served by mail upon the following:

Marvin Alberto Vivas-Morales  
84818  
York County Prison  
3400 Concord Rd.  
York, PA 17402

/s/ Rebecca Ross Haywood  
Assistant U.S. Attorney

Date: July 5, 2005